

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET- SUITE 300  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>

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FILED  
EPA REGION VIII  
HEARING CLERK

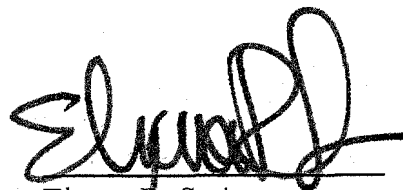
DOCKET NO.: CWA-08-2006-0050

IN THE MATTER OF:	)	
	)	
STATE OF UTAH FUEL NETWORK-	)	
LAYTON PUBLIC WORKS	)	FINAL ORDER
	)	
RESPONDENT	)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

9.29.06

DATE



Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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HEARING CLERK

In the Matter of:

State of Utah Fuel Network-  
Layton Public Works

Respondent.

**EXPEDITED CONSENT AGREEMENT**

**DOCKET NO. : CWA-08-2006-0050**

Complainant, United States Environmental Protection Agency, Region 8, and Respondent, Layton Public Works, by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations found during the review of the July 7, 2006 SPCC Plan on August 8, 2006, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates a fueling and maintenance facility, City of Layton Public Works Facility, located at 1925 North Fort Lane, Layton, Utah.

Respondent admits its facility is subject to the SPCC regulations.

Respondent agrees to correct the items cited on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion. Send a copy of the revised Plan to the person named below.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

A signed copy of this Agreement shall be sent to:

Donna K. Inman  
Technical Enforcement Program (8ENF-UFO)  
USEPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent consents and agrees to the assessment of a civil penalty of \$ 900.00 for violations of Section 311(j) of the Act, which, shall be paid no later than 30 days after the effective date of the Final Order by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, the Respondent shall submit a cashier's or certified check, payable to **"Environmental Protection Agency,"** and bearing the notations **"OSLTF - 311"** and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, PA 15251

If the Respondent sends payment by a private delivery service, the payment shall be addressed to:

Mellon Client Service Center  
ATTN: Shift Supervisor  
Lockbox 371099M Account 9109125  
500 Ross Street  
Pittsburgh, PA 15262-0001

If paying by EFT, the Respondent shall transfer \$ 900.00 to:

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, PA 15235

The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following persons:

**Tina Artemis, Regional Hearing Clerk (8RC)**  
**U.S. EPA Region 8**  
**999 18th Street, Suite 300**  
**Denver, CO 80202-2466**

and

**Donna K. Inman**  
**Technical Enforcement Program (8ENF-UFO)**  
**USEPA Region 8**  
**999 18th Street, Suite 300**  
**Denver, CO 80202-2466**

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, (3) taken corrective actions to prevent future spills, and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans  
Elisabeth Evans, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Date: 9/27/06

State of Utah Fuel Network, Respondent.

By: Steven L. Canning  
Name: Steven L. Canning  
Title: Compliance Specialist

Date: 9/27/06

State of Utah - Fuel Network  
447 West 13800 South  
Draper, Utah 84020

**List of SPCC Violations  
Layton Public Works  
1925 North Fort Lane, Layton, Utah**

40 C.F.R. § 112.3:

Failure to prepare and implement an SPCC Plan in accordance with  
40 C.F.R. § 112.7 and 112.8.

Specific violations found during review of the Plan are:

Does not follow sequence of 40 C.F.R. § 112, or contain a cross-reference, as  
required by 40 C.F.R. § 112.7.

No reason for non-conformance with rule requirements and how facility will  
provide equivalent environmental protection as required by  
40 C.F.R. § 112.7(a)(1) and (2).

Inadequate description of the type of oil in each container and its storage capacity  
as required by 40 C.F.R. § 112.7(a)(3)(i). Oil water separators need to be  
included on the container list.

Inadequate discussion of discharge prevention measures as required by  
40 C.F.R. § 112.7(a)(3)(ii).

Inadequate discussion of discharge or drainage controls as required by  
40 C.F.R. § 112.7(a)(3)(iii).

No discussion of disposal of recovered materials as required by  
40 C.F.R. § 112.7(a)(3)(v).

No discharge notification form as required by 40 C.F.R. § 112.7(a)(4).

No discussion of secondary containment for loading and unloading as  
required by 40 C.F.R. § 112.7(c).

No written procedures for required inspections and for records to be signed  
as required by 40 C.F.R. § 112.7(e).

Personnel not properly trained as required by 40 C.F.R. § 112.7(f)(1).

No procedures to lock the starter controls on oil pumps in the off position or to  
locate them in a site accessible only to authorized personnel when the pump is in  
a non-operating or non-standby status as required by 40 C.F.R. § 112.7(g)(3).

No provision for brittle fracture or catastrophic failure evaluation when field-constructed containers undergo repair, alteration, reconstruction, or a change in service which might affect the risk of a discharge as required by 40 C.F.R. § 112.7(i).

No discussion of whether facility complies with any applicable requirements or any more stringent State rules, regulations and guidelines as required by 40 C.F.R. § 112.7(j).

Inadequate discussion of facility drainage systems from undiked areas being designed to prevent a discharge as required by 40 C.F.R. § 112.8(b)(3).

Substantial Harm Certification is not signed in violation of 40 C.F.R. § 112.20(e).

Technical violations noted during the plan review:

No secondary containment for loading/unloading areas in violation of 40 C.F.R. § 112.7(c).

No records of inspections in violation of 40 C.F.R. § 112.7(e).

Personnel not properly trained as required by 40 C.F.R. § 112.7(f)(1).

Facility drainage systems from undiked areas are not designed to prevent a discharge as required by 40 C.F.R. § 112.8(b)(3).

No secondary containment for 100-gallon emergency generator tank in violation of 40 C.F.R. § 112.8(c)(2).

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **STATE OF UTAH FUEL NETWORK-LAYTON PUBLIC WORKS, DOCKET NO.: CWA-08-2006-0050** was filed with the Regional Hearing Clerk on September 29, 2006

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 29, 2006 to:

Steven L. Canning, Compliance Specialist  
State of Utah - Fuel Network  
447 West 13800 South  
Draper, UT 84020


Regular Mail to:

U. S. Coast Guard  
Commander  
Finance Center (OGR)  
1430 A Kristina Way  
Chesapeake, VA 23326

Telefaxed to:

U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268  
513-487-2063

September 29, 2006

  
Tina Artemis  
Regional Hearing Clerk